1:Franken et al M, G-5 (ca. 1913-1958) 1960
OF7 Balinese OF7

into three sections side by side. Two of the three can be explained by the fact that the ancestors worshipped consist of a male and a female group. The sun, or the sun god, sometimes appears as the third element. Batara Guru is also sometimes mentioned in this connection. Now Batara Guru – which, translated literally, means Lord Teacher – is a name used to indicate the highest celestial divinity, Siwa, but in both Sanskrit and Balinese *guru* can also mean parent or progenitor as well as teacher. Hence the third element denotes the common progenitor.[4] This is in keeping with the thought of the tripartite system:[5] the third element as a higher unity.

The 'shrine of origin' is closely linked with the life of the family. When a young couple marries, in other words when a new family is to be founded, a new shrine is erected in the form of a *turus lumbung*, a platform of thatched bamboo resting on four live *dadap* trunks. After some time has elapsed and the marriage has proved to be durable, this temporary shrine is replaced by one of wood – that is to say of a more durable material.[6]

Among the other standard requisites of the household temple are an offering column for the *ngurah* or *ngĕrurah*, the protector of the ground, and one for the *taksu*, the intercessor between gods and men.

2

Family Gods and the General Balinese Pantheon

These elements of the household temple are closely linked with a specific family and the ground it lives on. They represent primarily the private aspect of the household temple and the worship taking place in it. The household temples also display characteristics of a more general nature, however, and one usually finds in them deities who also play a rôle in the religious activities of the larger social groups.

In the first place there would seem to be a close tie with the religious activities of the village community. One can invoke the gods of the three village temples at the shrine of origin. The navel

Makassar OG6
Bali OF7

[96 cont.]

M 582 583 parental [bilateral] or parentage rights system prevails. Nevertheless, the bridegroom still pays a bride price, which here, of course, has nothing of the character of a purchase price for the girl. It is divided, together with other presents, among the M 586 relatives of the bride, who, for their part, also give presents and return a part of the bride price. Divorce is rife, and divorce can be instituted by both the man and the woman. A peculiar institution is the mapoewé awo, "to divide a bamboo into two equal parts," which refers to the [97] distribution of the children between the parents with the understanding that, in the case of divorce and provided the bride price has been paid, the first child, then the third, and so on, go to the M 562 mother, the others to the father. As is always the case with eleutherogamy, the position of women is not lower than that of the men; rule by women is common in southern Celebes.

B 621 631 d. Bali. Among the Balinese the interests of the individual are primarily concentrated in territorial jurisdictional communities, the Balinese dèsa; in former times they were combined into even larger territorial units, not always to their advantage or satisfaction, for example, the former Balinese principalities which were subdivided into districts.

B 592 ● 594 It is noteworthy that neither the family nor the household [gezin, or nuclear family] is a jurisdictional community, in view of the fact that the Balinese have a strong family sense, B [769 778] which expresses itself, for instance, in a veneration for the place from which the family traces its origin. A special temple is erected and pilgrimages are made there for giving offerings. B 631 Only the dèsa, however, the territorial region, is a jurisdictional community, and, besides that, the soebak, the Balinese polder.

B 621 Although one can thus say that the dèsa communities represent the pivot around which the interests of the individual revolve, this must be qualified to apply to the particular situation on Bali.

B [771 174] The whole life of the Balinese is very strongly influenced by his religion, an animism that has been greatly modified by

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Borneo OC1 Alienese OD4
Celebes OG1 Gorontalo OG4
Java OE1
Bali OF7

riage remain personal debts. In South Sumatra, such possessions are called "harta pembujangan" (of the husband) and "harta penantian" (of the wife). In Bali, they are "guna kaya" of both the husband and wife.

But if acquired during the course of the marriage, such possessions usually become the joint property of the husband and wife. Yet there are circumstances under which property acquired during marriage becomes the personal property of one of the marriage partners. In Atjeh, for example, the income of the husband belongs to him personally, unless the wife has provided the family some material basis in the form of a residential compound or a garden, or unless she gave him subsistence on a journey. (Could this be a ratiocination on the part of the community against the law of Islam, which does not recognize her?) In West Java, for example, if at the time of marriage the wife was rich and the husband poor, the income during marriage goes to the woman personally. But among the priyayi class in Java, it seems to be assumed that the receipts of the husband are for him. Finally, the goods or money which were presented by her parents to the wife, in connection with her marriage (not in the form of partition, dowry, etc.), generally continue to belong to her, and usually remain her personal property. Where a marriage gift to the wife occurs among the marriage payments, such as the "jinamee" in Atjeh, the "hoko" among the Minahasa, and the "sunrang" in the largest part of South Celebes, that property or money remains the property of the wife. In like manner, the presents, which she receives from her future husband or from family members as a part of getting married remain her own property, for the most part. In Atjeh this is true only of the defloration present and the seventh-day present. But it holds for the penalty, which (in Borneo, for example) the one spouse has to pay to the other because of an offense.

3. *Marriage property held jointly by husband and wife.*—The rule that property acquired during marriage is held jointly by husband and wife is just as common as the rule premised above with respect to "asal" property, which remains the property of the kin group. Joint ownership forms an estate to which both husband and wife each have a claim, in part, in case of divorce. It is a great exception if there is no provision at all for such joint property. It is only among patrilineal local groups that the kin group property of the husband (in case of a bride-price marriage) or of the wife (in case of an adoptive marriage) leaves no room for building a joint estate.

a joint estate. However, it is possible to observe the tendency of weakening kinship bonds, resulting in the strengthening of the small-family possessions. And only in those cases in which (outside of kinship group influence) one of the spouses has a definite personal superiority, as in the Sundanese marriage of a rich woman with a poor man (nyalindung ka gelung), or vice versa (manggih kaya), does this superiority prevent the development of a common estate.

Moreover, practically everywhere each family possession consists in part of "harta suarang" (Minangkabau), "barang perpantangan" (Borneo), "chakkara" (Buginese and Macasser), "druwe gabro (Bali), "barang gini," "gana gini" (Java), "guna kaya" (Sunda).

Occasionally, a difference in the extent of the estate also reflects a difference in force of attraction of extended family property. Joint matrimonial property among the Minangkabau is the most narrowly circumscribed. Only those possessions which result from the activity of both the husband and the wife seem to become "harta suarang." However, even here social change, which replaces the extended family joint-houses with small-family homes, strengthens the tendency to joint ownership by husband and wife.

Ordinarily, however, the joint property of husband and wife consists of that which was acquired during marriage, while both husband and wife were active in behalf of the family. Even the last requirement may be omitted, so that any possessions acquired during marriage are common family property. In isolated instances a transitional condition exists, as in Bali, where personally acquired possessions (called guna kaya) are regarded as being owned in common by husband and wife after three years. Thus, the trend in the field of ownership of possessions is a shifting of the center of gravity from the kin group to the family.

The modern practice of giving presents to the bridal couple is followed by joint ownership of these presents.

All sorts of special legal questions arise. Fruits of personal property are sometimes regarded as jointly owned (South Celebes). But sometimes this is so only if the spouse who does not own the "asal" property collaborated in its acquisition. In Java, for instance, these would be the "asal" cattle, tended by the other spouse. The proceeds from sale or barter of "asal" property constitute "asal" property. If "asal" property is used for the needs of the family, the spouse who

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Land Dyak OC8 Redjang-Lampong OD12
Ambon OH4 M. Minangkabau OD10
● Bali OF7

Possessions which a man has acquired as his own during his lifetime (harta pencharian) may pass as an indivisible unit at his death to his descendants, who are entitled to them and who during his lifetime already stood in relation to the possessions as "waris." (See p. 189.) If, for example, among the Minangkabau a woman dies in personal possession of a field, then that field becomes the indivisible group possession of her children: "harta pusaka" in the first generation. In a like manner, "harta pencharian" of a man become the "harta pusaka" of his brothers and sisters and the descendants of the sisters in the female line. Thus subdivisions are formed in the "harta pusaka." There are the oldest possessions[1] going back many generations and originating from the ancestral mothers, who co-operated in the establishment of the "nagari." And there are the most recent possessions originating from a deceased man or woman of the previous generation. Between these are the complexes originating from ancestors of several generations back. All this becomes simpler in practice than it appears, as a result of the dying-out of groups and the consequent fusion of family units. If an extended family becomes too large, then it splits up, and there is a split in the indivisible property (gadang manjimpang). Where, as on the Hitu Peninsula of Ambon, such indivisible extended family property (dati) is in the hands of a patrilineal subclan, the children of the man and the descendants of the sons are the continuers thereof. The characteristic feature of this first type of undivided estate is, accordingly, the impossibility of division and the fact that the group is jointly entitled to it, mostly under the guidance of an extended family chief, the "mamaq kepala waris," (Minangkabau), or the "kepala dati" (Hitu). If the family dies out and its possessions become ownerless (guntung in Minangkabau, linnyap in Ambon), they may pass to related extended families or, if such are lacking, to the community.

Another type of undivided estate is the right of inheritance by a single child, either the oldest son (as among some of the Lampong peoples and still to some extent in Bali), or the oldest daughter, and if there are no daughters, the youngest son, among the Semendoëans of South Sumatra and among the Landak and Tayan Dyaks of West Borneo. In case of the death of the father, the oldest son slips into his place. He becomes the native possessor of the property, but he has at the same time the obligation of supporting his brothers

[1] The "harta pusaka tinggi" under the control of the head of the largest family group unit, the "pengulu andiko."

and sisters. He must also give them away in marriage. On Bali, he must leave a portion of the property for a household shrine. Brothers, who do not wish to remain at home with the oldest brother in this way, emigrate with their families. In the Lampongs, whole "marga" appear to have been populated in this manner. But the paternal estate remains an undistributed unit from generation to generation in the possession of the "penyimbang," the eldest son of the eldest son. If there is no eldest son, and no provision for a substitute has been made, then that branch dies out, and the estate passes to the closest related branch. The possibility that younger children may demand the capitalizing of their right of maintenance, may lead to a claim to a division of the estate and to the desuetude of the seniority inheritance right. In Bali it seems that this process is making headway. The special position of the oldest daughter[2] among the Semendoëans, and of the oldest daughter (anaq pangkalan) among the Landak and Tayan Dyaks, has the effect of holding together the principal constituents of the estate as an indivisible unit made up of one agricultural field, one residential compound, one buffalo and one coconut tree. This unit remains both the place of departure and the place of refuge for all the children. Similarly privileged is the inheritance position of the youngest son among some of the Batak peoples. The one who stays at home the longest gets that part of the estate which was undivided in the hands of the testator. His obligations toward unmarried sisters, which he shares with the older brothers, are in proportion to his privileged position.

The well-known undivided extended family estates of the Minahasa (barang kalakeran) differ from the Minangkabauan extended family property in that distribution of the undivided estate is possible and permissible, provided all parties entitled to it give consent.

If individually acquired property (pasini), such as a new planting on land belonging to the extended family, is not divided, but passes on as the joint property of a group of descendants, who are but a fraction of the family group that owns the land, it creates subdivisions of the extended family just as it does among the Minangkabau. But in the Minahasan situation the effect is far more complicated, because of endogamous marriage. This is the cause of the confusion in land rights in the Minahasa, which was to be eliminated by making legally valid distribution of estates possible without complete unanimity of the family group members, who

[2] Tunggu tubang (under the supervision of the eldest son, the payung jurai).

become stronger than those which are based on extended family ties (p. 191). The children's right to inherit *ab intestato* the household goods as a whole arises through the practice of settlement.

The right of the children to inherit from both parents is a feature of the parental relationship both in the bilateral tribal organization (Dyak and Toraja) as well as that which results from the splitting up of larger relationship groups into families, as in Java.

In case of unilateral relationships, as was remarked above, there are two obstacles to the children inheriting from both parents. In the first place, children do not inherit from the parent, who remains a member of the family complex to which the children do not belong. For example: in Minangkabau where the children belong to the sub-clan of the mother, while the father has no part therein but remains attached to his own relationship group, the child's intestate right of succession to the goods of the father is excluded. The practice of settlement corrects this exclusion, while shifting of the social circumstances can partly or entirely annul it. Where daughters inherit the goods of their mother, and sons those of their father, as on Savu, the impediment can also be overcome by settlements. For example, the father can use his "pusaka" goods, which his daughter can never have the right to inherit, to settle (haru kaballa) a garden upon her and her female descendants.

Secondly, an entirely different obstacle to inheritance from their parents by children in unilateral relationship systems flows from the form of marriage consummated. As a result of strict bride-purchase, the bride, and in certain forms of adoptive marriage, the groom is cut loose from his community of relatives. This is the case among the Pepadon groups in the Lampongs. Among the Toba-Bataks, the daughter always withdraws from her father's family at marriage, with the result that she has no claim as a rightful heir in intestate succession—no more, for instance, than a married daughter has a claim to a part of her father's estate in Bali. The practice of settlement before, at, or after her marriage, corrects this exclusion. Even among the Toba-Bataks, although the daughter is not entitled to succession, she can ask for certain portions of the estate, on offering a feast with due attention to the prescribed forms of adat etiquette, and the sons or other relatives inheriting cannot refuse the request if it is at all reasonable.

In the group of children legally entitled to inherit, there is a differentiation in various law-areas which is tied up with the undis-

tributed portion of the parent's estate in the form of native possession by the oldest son (among some Bataks, Lampongs, Pasemah, and in Bali); by the oldest daughter (Semendo, Landak and Tayan Dyak); by the youngest son (some Bataks, elsewhere in Bali), by the oldest and youngest son, *etc.* (p. 197). A differentiation in patrilineal areas between boys and girls in the sense that sons have the right to twice as much of the estate as daughters does not seem to be of native origin; the "sapikul sagendong" (the two against one) as a native standard of distribution refers only to the proportion in the communal marital property, although it appears to have infiltrated here and there occasionally into local rules of succession, as a false popular analogy and supported by the laws of Islam (p. 193).

The point of view that the wealth of the household is destined from the very beginning for the material basis of living of those who are born to the couple is confirmed in the adat law rule of substitute succession. Children of deceased children get the share of their parents from their grandparent's estate. Only religious justice sometimes breaks into this scheme.

The position of the widow with respect to the estate in the adat law point of view is that the wife as a stranger has no right to inherit, but as a spouse is joint owner of the goods acquired during marriage, with the limitations described above (p. 193). Moreover, everywhere (except where matrilineal organization makes it unnecessary) she has a claim to life-long support from the estate. In Bali, during the period before the son is legally recognized as successor (in the rituals by the corpse of his father) she administrates the estates. As a matter of fact, she often has this right in other locales. Consequently, the wife does not receive the inherited goods of the husband as heiress, but if necessary is entitled to receive an income from this property or may receive a share from it in one payment as property with which to support herself. If, in a patrilineal system, she is taken into the man's family, she remains with them and is supported, sometimes getting a part of the estate for herself (Bali). If she allows herself to be separated from the man's family, however, she never receives any goods from him. With a single exception, the husband does not inherit from his wife. In patrilineal regions, such as Pasemah, the trousseau which a woman brings with her in a bride-price marriage and which she retains at divorce, goes to her husband on her death, just as in Bali the wife's share of marital property, both that earned by the wife her-